

NAPAA first reported the story of the Canadian Experiment in *Exclusivefocus, Fall 2007*, shortly after the agents in Canada learned of their plight. The story continued in the *Winter 2007-2008* issue featuring the story of former Allstate Canada agent Rod LaRocque, who took a bold stand against the company. These articles were followed by three more feature articles in 2008. NAPAA members can access past issues of *Exclusivefocus* Magazine in the "[Publications](#)" tab on this website. The following are news articles following this incredible story.

Allstate Hit by Growing Agent Revolt

March 20, 2008, By James Daw TheStar.com [Canada]

The "Good Hands" people are losing their grip after fumbling a plan to close 256 offices in Canada and change the way exclusive sales agents are paid.

Veteran agents are quitting or planning to quit Allstate Insurance Co. of Canada in order to keep their offices, keep their staff and give customers a choice of other insurance.

To make matters worse for Allstate, which sells about 3 per cent of the auto insurance in Ontario's crowded market, it cannot stop the former agents from selling to its clients.

A judge has denied Allstate an injunction and warned the company its agents could well argue successfully that the way it treated them invalidated contracts that supposedly prohibited the agents from soliciting Allstate clients for two years.

Allstate has tried to play hardball by suing one top-selling agent of 32 years for \$4.5 million and another for \$1.5 million. But a judge has emboldened other disgruntled agents by refusing to order agent Rod LaRocque of Sudbury to honour the non-solicitation clause until a trial is held.

Some 40 to 50 Ontario agents are poised to become rival brokers by September, sources say. Former Toronto Maple Leaf James (Jim) Dorey "retired" from Allstate on Friday, but has plans to open a new ProLink Insurance Group Inc. brokerage in Kingston.

"I am bothered about a number of the elements of (Allstate's) case," wrote Judge Paul Kane of the Ontario Superior Court of Justice when he refused to put LaRocque out of business before he could defend himself.

There is a "strong possibility" a court will find Allstate repudiated its own employment contracts, he concluded. Agents may prove their compensation was changed so substantially that it was equivalent to their dismissal by Allstate.

LaRocque alleges his commission income would have fallen by \$50,000 a year, despite Allstate's promise to "guarantee" a steady salary for two years under a new sales quota and compensation system that, as of last September, deprived existing agents of sales commissions and any compensation for policy renewals.

Kane added, "I am equally troubled by the alternative argument and implication that Mr. LaRocque, like some 435 other sales agents, owes a fiduciary duty (to not solicit Allstate clients) simply because of his close relationship to customers."

The judge noted courts have ruled in the past that only senior executives of insurance companies owe an obligation not to solicit business from former clients they may recall.

LaRocque has removed the Allstate signs from the office he had leased for more than a decade, and directed telephone calls to a new Allstate number.

But many Allstate agents will be able to maintain a relationship with clients because they were free to sell them life insurance and investments from other companies.

Other insurers, brokerage networks and a former vice-president of sales for Allstate have been only too happy to work with experienced agents, and even lend them money to break away.

Allstate can still cling to the possibility another judge will disagree with Kane at an appeal hearing on March 27, or that at trial a judge will order agents to compensate the company for the business it may lose. Kane ordered LaRocque to keep complete records of all insurance he sells, in case Allstate does win its lawsuit.

Derek Tupling of Allstate said the company cannot comment on the judge's ruling, but said "our business strategy remains the same."

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Allstate faces \$60m lawsuit in Canada

May 21, 2008, Hamilton, Ontario, NEWS RELEASE

Class Action Lawsuit Commenced against Allstate with respect to Constructive Dismissal of All Agents Across Canada

A Statement of Claim was issued in the Ontario Superior Court of Justice in Toronto on May 20, 2008 claiming damages for breach of contract and breach of the Employment Standards Act, S.O. 2000, c.41 on behalf of all individuals in Canada who were employed by Allstate as agents as of July 24, 2007.

The Statement of Claim seeks damages of more than \$60,000,000.00.

The plaintiffs, Esther Kafka, Ketal (Ken) Patel and Mark Cassells, have brought the action under the Class Proceedings Act, 1992.

The Statement of Claim alleges that on July 24, 2007, Allstate unilaterally announced substantive material changes to the employment contract terms with all of its sales agents, numbering approximately 450, across Canada.

The Statement of Claim alleges that all agents were employed under the same or substantially the same terms and conditions and that the changes unilaterally announced were to be implemented September 1, 2007.

The Statement of Claim furthermore alleges that the changes introduced by Allstate strip agents of their renewal books of business and closes 256 agent locations throughout Canada consolidating those locations.

The Statement of Claim furthermore alleges that the compensation system for Allstate agents changed effective September 1, 2007.

The claim is being pursued by Scarfone Hawkins LLP of Hamilton, a law firm with significant experience in handling class action claims on behalf of plaintiffs.

The Statement of Claim contains allegations which have yet to be proven in Court.

Counsel for the plaintiffs, David Thompson and Matthew Moloci say that the proposed class proceeding represents not only the preferable procedure for dealing with this dispute, but the only available procedure presenting an opportunity for redress for class members.

For more information contact David Thompson at Scarfone Hawkins LLP, 905-523-1333 or thompson@shlaw.ca. or visit <http://www.classactionlaw.ca/content/claims/Allstate/Allstate.htm>
[Click Here to Read Statement of Claim](#)

Canadian Allstate Agents Sue Over Contract Change

June 13, 2008, BY MARK E. RUQUET NU Online News Service

Three Allstate agents in Canada have filed a prospective class-action suit against the Northbrook, Ill.-based carrier claiming changes the company made in their contracts stripped them and other agents of their business and closed half its Canadian offices.

The suit, filed in Ontario Superior Court of Justice in Toronto back in May, is claiming damages for breach of contract and breach of the nation's Employment Standards Act for at least \$58 million in damages (\$60 million Canadian).

An Allstate spokesman said the company is reviewing the matter.

The suit claims that in July of last year Allstate "unilaterally announced substantive material changes to the employment contract terms with all of its sales agents, numbering approximately 450, across Canada."

The changes altered the compensation system for the agents, robbed them of their renewal books of business and closed 256 agent locations throughout the country to consolidate locations, the suit alleges.

The suit accuses the insurer of failing to pay termination and severance payments to former employees. It also alleges the new agreement "reduced the wage rate and/or altered other terms and conditions of employment of" the Allstate agents.

The lawsuit was filed by Esther Kafka, Ketal "Ken" Patel and Mark Cassells. Plaintiffs' attorney David Thompson, with the law firm Scarfone Hawkins in Hamilton, Ontario, said Mr. Patel is the only one of the three who is presently an Allstate agent.

Mr. Thompson said by e-mail that the suit has not yet been certified as a class-action suit, but "the case is meritorious" and the "proposed class proceeding presents the only reasonable and practical avenue for redress."

Mr. Thompson went on to say that the Allstate agents believe they were not independent contractors but employees of the company. He could not say if the nature of the relationship between agents and the company was similar to that in United States.

Allstate made a change in the U.S. producer contract eight years ago affecting some 6,200 agents. That action eventually resulted in several suits and action by the U.S. Equal Employment Opportunity Commission, which said the company's policies purposely affected a huge percentage of agents over the age of 40.

The suit has attracted the attention of many agents, Mr. Thompson said, adding, "We have been contacted by many agents expressing interest in and support for the action."

Mr. Thompson said Allstate has replied to the suit, indicating it plans to defend against it.

Update from the website for Scarfone Hawkins LLP

December 8, 2008, Attorneys for the Canadian Agent's Class Action Lawsuit

Our motion material seeking an order certifying this action as a class proceeding have been served upon the defendants through counsel and filed with the Court.

We are awaiting a response from the defendants. We expect a response in early 2009 and at that point the designated class proceedings Judge will set a date for argument of the certification motion and a schedule for other filings and steps leading up to argument of the motion.

A copy of this motion, as well as the statement of Claim are available at their website:

<http://www.classactionlaw.ca/content/claims/Allstate/Allstate.htm>